

## **REMARKS**

In response to the Notice of Non-Compliant Amendment issued on January 16, 2004, Applicants have added a colon after the first "of" in claims 1 and 2. Claims 1 and 2 have not been amended since filing the application and, therefore, the description of the status of both claims remains as "original". The Examiner is now respectfully requested to consider the present Preliminary Amendment.

In the September 30<sup>th</sup> Office Action, the Examiner required restriction to one of three inventions. Responsive to the Examiner's Restriction Requirement, Applicants elected, with traverse, to continue prosecution on the invention of Group I, claims 1 - 9, drawn to a method of making a transfer factor.

Applicants respectfully traversed the rejection because it was believed that the additional searching required by considering all of the claims would not be unduly burdensome to the Patent Office. Method claims 1 - 9 were classified in the same class as the product claims 10 - 18, thus, the additional effort in effecting a search for both inventions did not create a significant burden on the patent office. Therefore, Applicants respectfully requested that claims 1 - 20 be examined simultaneously.

Claims 10 - 20 are cancelled while reserving all rights to continue prosecution on those claims in the present application or in a later-filed divisional or continuing application.

Finally, new claims 21 and 22 are drawn to the same invention as elected Group I, and as such, Applicants respectfully request that the Examiner consider new claims 21 and 22 to be included within the invention of elected Group I. Such claims were copied from U.S. Patent 6,468,534 as supported by the disclosure of the present

application so as to provoke an interference with the aforesaid Patent. Therefore, Applicants respectfully request that elected claims 1 – 9 be examined simultaneously with new claims 21 and 22.

In summary, it is submitted that Applicants' claims presently in the application are sufficiently definite under 35 U.S.C. § 112 and are patentably distinct over the prior art of record. Thus, it is submitted that the present application is in a condition for allowance and favorable action therefor is respectfully requested. The Examiner is also respectfully requested to consider the previously filed Request to Provoke Interference and to declare the requested interference. The Examiner is invited to telephone the undersigned should only minor issues remain after consideration of the present Response to permit early resolution of same.

Please charge any additional fees required by this Response to Deposit Account No. 50-2548.

Respectfully requested,

NELSON MULLINS RILEY & SCARBOROUGH

March 18, 2004  
Date

  
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